

**31.4(2)** Failure to receive renewal application shall not relieve the licensee of the responsibility of meeting continuing education requirements and submitting the renewal fee by September 30 of the even-numbered year.

**31.4(3)** Audit of continuing education reports.

*a.* After each educational biennium the board will audit a percentage of the continuing education reports at random before the renewal licenses are issued to those being audited.

*b.* All renewal license applications that are submitted late (after September 30 of the even-numbered year) shall be subject to an audit.

*c.* Any licensee against whom a complaint is filed may be subject to an audit of the licensee's continuing education.

*d.* The licensee must make the following information available to the board for auditing purposes:

(1) Date, place, course title, schedule, presenter(s).

(2) Number of contact hours for program attended.

(3) Official signature of sponsor indicating successful completion of course.

*e.* For auditing purposes the licensee must retain the above information for four years.

**645—31.5(272C) Hearing.** In the event of denial, in whole or part, of credit for continuing education activity, the licensee shall have the right, within 20 days after sending of the notification of denial by ordinary mail, to request a hearing which will be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board. If the hearing is conducted by an administrative law judge, the law judge shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the law judge. The decision of the board or decision of the administrative law judge after adoption by the board shall be final.

**645—31.6(272C) Disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the requirements. No waiver or extension of time shall be granted unless written application is made on forms provided by the board and is signed by the licensee and the appropriately licensed health care professional and the waiver is acceptable to the board. Waivers of the minimum continuing education requirements may be granted by the board for any period of time not to exceed one calendar year or in the event that the disability or illness upon which a waiver has been granted continues beyond the period for which the waiver has been granted. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—31.7(147,154D,272C) Complaint.** A consumer complaint alleging a licensee's professional misconduct may be made by any person to the Board of Behavioral Science Examiners, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall be in writing and shall include complainant's address and telephone number, be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter.

**645—31.8(147,154D,272C) Grounds for discipline.** The board may revoke or suspend a license, place a licensee on probation, impose a civil penalty which shall not exceed \$1000, or impose other discipline described in Iowa Code section 272C.3(2) for any of the following reasons:

**31.8(1)** All grounds listed in Iowa Code sections 147.55 and 272C.10.

**31.8(2)** Violations of rules promulgated by the board.

**31.8(3)** For marital and family therapists, violation of the code of conduct for marital and family therapists.

**31.8(4)** For mental health counselors, violation of the code of conduct for mental health counselors.

**31.8(5)** Fraud in procuring a license.

**31.8(6)** Professional incompetency.

**31.8(7)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**31.8(8)** Habitual intoxication or addiction to the use of drugs.

**31.8(9)** Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**31.8(10)** Fraud in representations as to skill or ability.

**31.8(11)** Use of untruthful or improbable statements in advertisements.

**31.8(12)** Willful or repeated violations of the provisions of Iowa Code chapter 147 or 154D.

**31.8(13)** Personal disqualifications:

*a.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*b.* Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

**31.8(14)** Holding oneself out as a licensee when the license has been suspended or revoked.

**31.8(15)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board a revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

**31.8(16)** Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**31.8(17)** Prohibited acts consisting of the following:

*a.* Permitting another person to use the license for any purpose.

*b.* Practice outside the scope of the license.

*c.* Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

*d.* Verbally or physically abusing clients.

*e.* Any sexual intimidation or sexual relationship between a licensee and a client.

**31.8(18)** Unethical business practices, consisting of any of the following:

*a.* False or misleading advertising.

*b.* Betrayal of a professional confidence.

*c.* Falsifying client's records.

**31.8(19)** Failure to report to the board a change of name or address within 30 days after it occurs.

**31.8(20)** Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation conducted by the board.

**31.8(21)** Failure to report to the board any violation by another licensee of the reasons for disciplinary action as listed in this rule.

**645—31.9(147,154D,272C) Rules of conduct for marital and family therapists.**

**31.9(1) *Responsibility to clients.*** Marital and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

a. Marital and family therapists do not discriminate against or refuse professional service to anyone on the basis of race, gender, religion, national origin, or sexual orientation.

b. Marital and family therapists are aware of their influential position with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with clients. Sexual intimacy with clients is prohibited. Sexual intimacy with former clients for two years following the termination of therapy is prohibited.

c. Marital and family therapists do not use their professional relationships with clients to further their own interests.

d. Marital and family therapists respect the right of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise a client that a decision on marital status is the responsibility of the client.

e. Marital and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

f. Marital and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

g. Marital and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

h. Marital and family therapists obtain written, informed consent from clients before videotaping, audiorecording, or permitting third-party observation.

**31.9(2) *Confidentiality.*** Marital and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard confidences of each individual client.

a. Marital and family therapists may not disclose client confidences except:

(1) As mandated by law;

(2) To prevent a clear and immediate danger to a person or persons;

(3) Where the therapist is a defendant in a civil, criminal, or disciplinary action arising from the therapy (in which case client confidences may be disclosed only in the course of that action); or

(4) If there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver. In circumstances where more than one person in a family receives therapy, each such family member who is legally competent to execute a waiver must agree to the waiver required by this subparagraph. Without such a waiver from each family member legally competent to execute a waiver, a therapist cannot disclose information received from any family member.

b. Marital and family therapists use client or clinical materials in teaching, writing, and public presentations only if a written waiver has been obtained in accordance with 31.9(2) "a"(4), or when appropriate steps have been taken to protect client identity and confidentiality.

c. Marital and family therapists store or dispose of client records in ways that maintain confidentiality.

**31.9(3) *Professional competence and integrity.*** Marital and family therapists maintain high standards of professional competence and integrity.

a. Marital and family therapists seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

b. Marital and family therapists, as teachers, supervisors, and researchers, are dedicated to high standards of scholarship and present accurate information.

c. Marital and family therapists remain abreast of new developments in family therapy knowledge and practice through educational activities.

d. Marital and family therapists do not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in investigations and ethical proceedings.

e. Marital and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competence.

f. Marital and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

g. Marital and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

**31.9(4) *Responsibility to students, employees, and supervisees.*** Marital and family therapists do not exploit the trust and dependency of students, employees, and supervisees.

a. Marital and family therapists are aware of their influential position with respect to students, employees, and supervisees, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid dual relationships that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, therapists take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with students, employees, or supervisees. Provision of therapy to students, employees, or supervisees is prohibited. Sexual intimacy with students or supervisees is prohibited.

b. Marital and family therapists do not permit students, employees, or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

c. Marital and family therapists do not disclose supervisee confidences except:

- (1) As mandated by law;
- (2) To prevent a clear and immediate danger to a person or persons;
- (3) Where the therapist is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case supervisee confidences may be disclosed only in the course of that action);

(4) In educational or training settings where there are multiple supervisors, and then only to other professional colleagues who share responsibility for the training of the supervisee; or

(5) If there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

**31.9(5) *Responsibility to research participants.*** Investigators respect the dignity and protect the welfare of participants in research and are aware of federal and state laws and regulations and professional standards governing the conduct of research.

*a.* Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of research participants.

*b.* Investigators requesting participants' involvement in research inform them of all aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, have impairments which limit understanding or communication, or when participants are children.

*c.* Investigators respect participants' freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Marital and family therapists, therefore, make every effort to avoid dual relationships with research participants that could impair professional judgment or increase the risk of exploitation.

*d.* Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

**31.9(6) *Responsibility to the profession.*** Marital and family therapists respect the rights and responsibilities of professional colleagues and participate in activities which advance the goals of the profession.

*a.* Marital and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations.

*b.* Marital and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

*c.* Marital and family therapists who are the authors of books or other materials that are published or distributed cite persons to whom credit for original ideas is due.

*d.* Marital and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

**31.9(7) *Financial arrangements.*** Marital and family therapists make financial arrangements with clients, third-party payers, and supervisees that are reasonably understandable and conform to accepted professional practices.

- a. Marital and family therapists do not offer or accept payment for referrals.
- b. Marital and family therapists do not charge excessive fees for services.
- c. Marital and family therapists disclose their fees to clients and supervisees at the beginning of services.
- d. Marital and family therapists represent facts truthfully to clients, third-party payers, and supervisees regarding services rendered.

**31.9(8) *Advertising.*** Marital and family therapists engage in appropriate informational activities, including those that enable laypersons to choose professional services on an informed basis.

- a. Marital and family therapists accurately represent their competence, education, training, and experience relevant to their practice of marital and family therapy.
- b. Marital and family therapists do not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and do not hold themselves out as being partners or associates of a firm if they are not.
- c. Marital and family therapists do not use any professional identification (such as a business card, office sign, letterhead, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A statement is false, fraudulent, misleading, or deceptive if it (1) contains a material misrepresentation of fact; (2) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or (3) is intended to or is likely to create an unjustified expectation.
- d. Marital and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.
- e. Marital and family therapists make certain that the qualifications of persons in their employ are represented in a manner that is not false, misleading, or deceptive.
- f. Marital and family therapists may represent themselves as specializing within a limited area of marital and family therapy, but only if they have the education and supervised experience in settings which meet recognized professional standards to practice in that specialty area. Professional association designations may only be represented by persons who have been qualified by the respective association, and may only be represented as permitted by that professional association.

**645—31.10(147,154D,272C) Rules of conduct for mental health counselors.** Mental health counselors believe in the dignity and worth of the individual. They are committed to increasing knowledge of human behavior and understanding of themselves and others. While pursuing these endeavors, they make every reasonable effort to protect the welfare of those who seek their services or of any subject that may be the object of study. They use their skills only for purposes consistent with these values and do not knowingly permit their misuse by others. While demanding for themselves freedom of inquiry and communication, mental health counselors accept the responsibility this freedom confers: competence, objectivity in the application of skills and concern for the best interest of clients, colleagues, and society in general.

**31.10(1) Responsibility.** In their commitment to the understanding of human behavior, mental health counselors value objectivity and integrity, and in providing services they maintain the highest standards. They accept responsibility for the consequences of their work and make every effort to ensure that their services are used appropriately.

*a.* Mental health counselors accept ultimate responsibility for selecting appropriate areas for investigation and the methods relevant to minimize the possibility that their findings will be misleading. They provide thorough discussion of the limitations of their data and alternative hypotheses, especially where their work touches on social policy or might be misconstrued to the detriment of specific age, sex, ethnic, socioeconomic, or other social categories. In publishing reports of their work, they never discard observations that may modify the interpretation of results. Mental health counselors take credit only for the work they have actually done. In pursuing research, mental health counselors ascertain that their efforts will not lead to changes in individuals or organizations unless such changes are part of the agreement at the time of obtaining informed consent. Mental health counselors clarify in advance the expectations for sharing and utilizing research data. They avoid dual relationships which may limit objectivity, whether theoretical, political, or monetary, so that interference with data, subjects, and milieu is kept to a minimum.

*b.* As employees of an institution or agency, mental health counselors have the responsibility of remaining alert to institutional pressures which may distort reports of counseling findings or use them in ways counter to the promotion of human welfare.

*c.* As teachers, mental health counselors recognize their primary obligation to help others acquire knowledge and skill. They maintain high standards of scholarship and objectivity by presenting counseling information fully and accurately and by giving appropriate recognition to alternative viewpoints.

*d.* As practitioners, mental health counselors know that they bear heavy social responsibility because their recommendations and professional actions may alter the lives of others. They, therefore, remain fully cognizant of their impact and are alert to personal, social, organizational, financial or political situations or pressures which might lead to misuse of their influence.

*e.* Mental health counselors provide reasonable and timely feedback to employees, trainees, supervisors, students, and others whose work they may evaluate.

**31.10(2) Competence.** The maintenance of high standards of professional competence is a responsibility shared by all mental health counselors in the interest of the public and the profession as a whole. Mental health counselors recognize the boundaries of their competence and the limitations of their techniques and only provide services, use the techniques, or offer opinions as professionals that meet recognized standards. Throughout their careers, mental health counselors maintain knowledge of professional information related to the services they render.

*a.* Mental health counselors accurately represent their competence, education, training, and experience.

*b.* As teachers, mental health counselors perform their duties based on careful preparation so that their instruction is accurate, up-to-date and scholarly.

*c.* Mental health counselors recognize the need for continuing training to prepare themselves to serve persons of all ages and cultural backgrounds. They are open to new procedures and sensitive to differences between groups of people and changes in expectations and values over time.

*d.* Mental health counselors with the responsibility for decisions involving individuals or policies based on test results should know and understand literature relevant to the tests used and testing problems with which they deal.

e. Mental health counselors and practitioners recognize that their effectiveness depends in part upon their ability to maintain sound interpersonal relations, that temporary or more enduring aberrations on their part may interfere with their abilities or distort their appraisals of others. Therefore, they refrain from undertaking any activity in which their personal problems are likely to lead to inadequate professional services or harm to a client, or, if they are already engaged in such activity when they become aware of their personal problems, they would seek competent professional assistance to determine whether they should suspend or terminate services to one or all of their clients.

**31.10(3) *Moral and legal standards.*** Mental health counselors' moral, ethical, and legal standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities, or reduce the trust in counseling, or counselors, held by the general public. Regarding their own behavior, mental health counselors should be aware of the prevailing community standards and of the possible impact upon the quality of professional services provided by their conformance to or deviation from these standards. Mental health counselors should also be aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

a. Mental health counselors shall avoid public behavior that is clearly in violation of accepted moral and legal standards.

b. To protect students, counselors/teachers must be aware of the diverse backgrounds of students and, when dealing with topics that may give offense, will see that the material is treated objectively, that it is clearly relevant to the course, and that it is treated in a manner for which the student is prepared.

c. As employees, mental health counselors refuse to participate in an employer's practices which are inconsistent with the moral and legal standards established by federal or state legislation regarding the treatment of employees or of the public. In particular and for example, mental health counselors will not condone practices which result in illegal or otherwise unjustifiable discrimination on the basis of race, sex, religion or national origin in hiring, promotion, or training.

d. In providing counseling services to clients, mental health counselors avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by the action.

e. Sexual conduct, not limited to sexual intercourse, between mental health counselors and clients is specifically in violation of this code of conduct. This does not, however, prohibit the use of explicit instructional aids including films and videotapes. Such use is within accepted practices of trained and competent sex therapists.

**31.10(4) *Public statements.*** Mental health counselors in their professional roles may be expected or required to make public statements providing counseling information and professional opinions, or supply information about the availability of counseling products and services. In making such statements, mental health counselors take full account of the limits and uncertainties of present counseling knowledge and techniques. They represent, as objectively as possible, their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which the statements may be associated. All public statements, announcements of services, and promotional activities should serve the purpose of providing informed judgments and choices on matters that concern it.

a. When announcing professional services, mental health counselors limit the information to: name, highest relevant degree conferred, certification or licensure, address, telephone number, office hours, cost of services, and brief explanation of the types of services offered but not evaluative as to their quality or uniqueness. Such announcements will not contain testimonial by implication. They will not claim uniqueness of skill or methods beyond those available to others in the profession unless determined by acceptable and public scientific evidence.



*b.* In announcing the availability of counseling services or products, mental health counselors will not display their affiliations with organizations or agencies in a manner that implies sponsorship or certification of the organization or agency. They will not name their employer or professional associations unless the services are in fact to be provided by or under the responsible, direct supervision and continuing control of such organizations or agencies.

*c.* Mental health counselors associated with the development or promotion of counseling devices, books, or other products offered for commercial sale will make every effort to ensure that announcements and advertisements are presented in a professional and factually informative manner without unsupported claims of superiority. Any claims must be supported by scientifically acceptable evidence or by willingness to aid and encourage independent professional scrutiny or scientific test.

*d.* Mental health counselors engaged in radio, television or other public media activities will not participate in commercial announcements recommending to the general public the purchase or use of any proprietary or single-source product or service.

*e.* Mental health counselors who describe counseling or the services of professional counselors to the general public accept the obligation to present the material fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration or superficiality. Mental health counselors will be guided by the primary obligation to aid the public in forming their own informed judgments, opinions and choices.

*f.* As teachers, mental health counselors ensure that statements in catalogs and course outlines are accurate, particularly in terms of subject matter to be covered, basis for grading, and nature of classroom experiences. As practitioners providing private services, mental health counselors avoid improper, direct solicitation of clients and the conflict of interest inherent therein.

*g.* Mental health counselors accept the obligation to correct others who may represent their professional qualifications or associations with products or services in a manner incompatible with these guidelines.

**31.10(5) Confidentiality.** Mental health counselors have a primary obligation to safeguard information about individuals obtained in the course of teaching, practice, or research. Personal information is communicated to others only with the person's written consent or in those circumstances where there is clear and imminent danger to the client, to others or to society. Disclosures of counseling information are restricted to what is necessary, relevant, and verifiable.

*a.* All materials in the official record shall be shared with the client, who shall have the right to decide what information may be shared with anyone beyond the immediate provider of service and to be informed of the implications of the materials to be shared.

*b.* The anonymity of clients served in public and other agencies is preserved, if at all possible, by withholding names and personal identifying data. If external conditions require reporting such information, the client shall be so informed.

*c.* Information received in confidence by one agency or person shall not be forwarded to another person or agency without the client's written permission.

*d.* Service providers have a responsibility to ensure the accuracy and to indicate the validity of data shared with third parties.

*e.* Case reports presented in classes, professional meetings, or in publications shall be so disguised that no identification is possible, unless the client or responsible authority has read the report and agreed in writing to its presentation or publication.

f. Counseling reports and records are maintained under conditions of security, and provisions are made for their destruction when they have outlived their usefulness. Mental health counselors ensure that privacy and confidentiality are maintained by all persons in their employ or volunteers and community aides.

g. Mental health counselors who ask that an individual reveal personal information in the course of interviewing, testing or evaluation, or who allow such information to be divulged, do so only after making certain that the person or authorized representative is fully aware of the purposes of the interview, testing or evaluation and of the ways in which the information will be used.

h. Sessions with clients are taped or otherwise recorded only with their written permission or the written permission of a responsible guardian. Even with guardian written consent, one should not record a session against the expressed wishes of a client.

i. Where a child or adolescent is the primary client, the interest of the minor shall be paramount.

j. In work with families, the rights of each family member should be safeguarded. The provider of service also has the responsibility to discuss the contents of the record with the parent or child, as appropriate, and to keep separate those parts which should remain the property of each family member.

**31.10(6) Welfare of the consumer.** Mental health counselors respect the integrity and protect the welfare of the people and groups with whom they work. When there is a conflict of interest, mental health counselors clarify the nature and direction of their loyalties and responsibilities and keep all parties informed of their commitments. Mental health counselors fully inform consumers as to the purpose and nature of any evaluative, treatment, educational or training procedure, and they freely acknowledge that clients, students, or subjects have freedom of choice with regard to participation.

a. Mental health counselors are continually cognizant both of their own needs and of their inherently powerful position vis-a-vis clients, in order to avoid exploiting the client's trust and dependency. Mental health counselors make every effort to avoid dual relationships with clients or relationships which might impair their professional judgment or increase the risk of client exploitation. Examples of such dual relationships include treating an employee or supervisor, treating a close friend or family relative and sexual relationships with clients.

b. Where mental health counselors' work with members of an organization goes beyond reasonable conditions of employment, mental health counselors recognize possible conflicts of interest that may arise. When such conflicts occur, mental health counselors clarify the nature of the conflict and inform all parties of the nature and directions of the loyalties and responsibilities involved.

c. When acting as supervisors, trainers, or employers, mental health counselors accord recipients informed choice, confidentiality, and protection from physical and mental harm.

d. Financial arrangements in professional practice are in accord with professional standards that safeguard the best interests of the client and that are clearly understood by the client in advance of billing. This may best be done by the use of a contract. Mental health counselors are responsible for assisting clients in finding needed services in those instances where payment of the usual fee would be a hardship. No commission or rebate or other form of remuneration may be given or received for referral of clients for professional services, whether by an individual or by an agency.

e. Mental health counselors are responsible for making their services readily accessible to clients in a manner that facilitates the client's ability to make an informed choice when selecting a service provider. This responsibility includes a clear, written description of what the client may expect in the way of tests, reports, billing, therapeutic regime and schedules.

f. Mental health counselors who find that their services are not beneficial to the client have the responsibility to make this known to the responsible persons.

g. Mental health counselors are accountable to the parties who refer and support counseling services and to the general public and are cognizant of the indirect or long-range effects of their intervention.

h. The mental health counselor attempts to terminate a private service or consulting relationship when it is reasonably clear to the mental health counselor that the consumer is not benefiting from it. If a consumer is receiving services from another mental health professional, mental health counselors do not offer their services directly to the consumer without informing the professional persons already involved in order to avoid confusion and conflict for the consumer.

**31.10(7) Professional relationships.** Mental health counselors act with due regard to the needs and feelings of their colleagues in counseling and other professions. Mental health counselors respect the prerogatives and obligations of the institutions or organizations with which they are associated.

a. Mental health counselors understand the areas of competence of related professions and make full use of other professional, technical, and administrative resources which best serve the interests of consumers. The absence of formal relationships with other professional workers does not relieve mental health counselors from the responsibility of securing for their clients the best possible professional service; indeed, this circumstance presents a challenge to the professional competence of mental health counselors, requiring special sensitivity to problems outside their areas of training, and foresight, diligence, and tact in obtaining the professional assistance needed by clients.

b. Mental health counselors know and take into account the traditions and practices of other professional groups with which they work and cooperate fully with members of such groups when research, services, and other functions are shared or in working for the benefit of public welfare.

c. Mental health counselors strive to provide positive conditions for those they employ, and they spell out clearly the conditions of such employment. They encourage their employees to engage in activities that facilitate their further professional development.

d. Mental health counselors respect the viability, reputation, and the proprietary right of organizations which they serve. Mental health counselors show due regard for the interest of their present or prospective employers. In those instances where they are critical of policies, they attempt to effect change by constructive action within the organization.

e. In the pursuit of research, mental health counselors give sponsoring agencies, host institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research and ensure that host institutions are given feedback information and proper acknowledgment.

f. Credit is assigned to those who have contributed to a publication, in proportion to their contribution.

**31.10(8) Utilization of assessment techniques.** In the development, publication, and utilization of counseling assessment techniques, mental health counselors follow relevant standards. Individuals examined, or their legal guardians, have the right to know the results, the interpretations made and, where appropriate, the particulars on which final judgment was based. Test users should take precautions to protect test security but not at the expense of an individual's right to understand the basis for decisions that adversely affect that individual or that individual's dependents.

a. The client has the right to have, and the provider has the responsibility to give, explanations of test results in language the client can understand.

b. When a test is published or otherwise made available for operational use, it should be accompanied by a manual (or other published or readily available information) that makes every reasonable effort to describe fully the development of the test, the rationale, specifications followed in writing items analysis or other research. The test, the manual, the record forms, and other accompanying material should help users make correct interpretations of the test results and should warn against common misuses. The test manual should state explicitly the purpose and applications for which the test is recommended and identify any special qualifications required to administer the test and to interpret it properly. Evidence of validity and reliability, along with other relevant research data, should be presented in support of any claims made.

c. Norms presented in test manuals should refer to defined and clearly described populations. These populations should be the groups with whom users of the test will ordinarily wish to compare the persons tested. Test users should consider the possibility of bias in tests or in test items. When indicated, there should be an investigation of possible differences in validity for ethnic, sex, or other subsamples that can be identified when the test is given.

d. Mental health counselors who have the responsibility for decisions about individuals or policies that are based on test results should have a thorough understanding of counseling or educational measurement and of validation and other test research.

e. Mental health counselors should develop procedures for systematically eliminating from data filed test score information that has, because of the lapse of time, become obsolete.

f. Any individuals or organizations offering test scoring and interpretation services must be able to demonstrate that their programs are based on appropriate research to establish the validity of the programs and procedures used in arriving at interpretations. The public offering of an automated test interpretation service will be considered as a professional-to-professional consultation. In this, the formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

g. Counseling services for the purpose of diagnosis, treatment, or personalized advice are provided only in the context of a professional relationship, and are not given by means of public lectures or demonstrations, newspapers or magazine articles, radio or television programs, mail, or similar media. The preparation of personnel reports and recommendations based on test data secured solely by mail is unethical unless such appraisals are an integral part of a continuing client relationship with a company as a result of which the consulting mental health counselor has intimate knowledge of the client's personal situation and can be assured thereby that written appraisals will be adequate to the purpose and will be properly interpreted by the client. These reports must not be embellished with such detailed analyses of the subject's personality traits as would be appropriate only for intensive interviews with the subjects.

**31.10(9) Pursuit of research activities.** The decision to undertake research should rest upon a considered judgment by the individual mental health counselor about how best to contribute to counseling and to human welfare. Mental health counselors carry out their investigations with respect for the people who participate and with concern for their dignity and welfare.

a. In planning a study, the investigator has the personal responsibility to make a careful evaluation of its ethical acceptability, taking into account the following principle for research with human beings. To the extent that this appraisal, weighing scientific and humane values, suggests a deviation from any principle, the investigator incurs an increasingly serious obligation to seek ethical advice and to observe more stringent safeguards to protect the rights of the human research participants.

*b.* Mental health counselors know and take into account the traditions and practices of other professional groups with members of such groups when research, services, and other functions are shared or in working for the benefit of public welfare.

*c.* Ethical practice requires the investigator to inform the participant of all features of the research that reasonably might be expected to influence willingness to participate, and to explain all other aspects of the research about which the participant inquires. Failure to make full disclosure gives added emphasis to the investigator's abiding responsibility to protect the welfare and dignity of the research participant.

*d.* Openness and honesty are essential characteristics of the relationship between investigator and research participant. When the methodological requirements of a study necessitate concealment or deception, the investigator is required to ensure as soon as possible the participant's understanding of the reasons for this action and to restore the quality of the relationship with the investigator.

*e.* In the pursuit of research, mental health counselors give sponsoring agencies, host institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

*f.* Credit is assigned to those who have contributed to a publication, in proportion to their contribution.

*g.* The ethical investigator protects participants from physical and mental discomfort, harm and danger. If the risk of such consequences exists, the investigator is required to inform the participant of that fact, secure consent before proceeding, and take all possible measures to minimize distress. A research procedure may not be used if it is likely to cause serious and lasting harm to participants.

*h.* After the data is collected, ethical practice requires the investigator to provide the participant with a full clarification of the nature of the study and to remove any misconceptions that may have arisen. Where scientific or humane values justify delaying or withholding information, the investigator acquires a special responsibility to ensure that there are no damaging consequences for the participants.

*i.* Where research procedures may result in undesirable consequences for the participant, the investigator has the responsibility to detect and remove or correct these consequences, including, where relevant, long-term aftereffects.

*j.* Information obtained about the research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, be explained to the participants as a part of the procedure for obtaining informed consent.

**645—31.11(147,154D,272C) Report of malpractice claims or actions or disciplinary actions.**

Each licensee shall submit a copy of any judgment or settlement of a malpractice claim or any disciplinary action taken by another licensing authority in another state to the board within 30 days after such action.

**645—31.12(147,154D,272C) Investigation of complaints or malpractice claims.** The following procedure will be the standard method followed by the board for investigation of complaints or malpractice claims:

**31.12(1)** Complaints shall be initially reviewed by the discipline screening committee of the board. The discipline screening committee is composed of a minimum of three board members including at least one professional member of each profession licensed by the board and one public member. After initial review, the screening committee may decide to recommend one of the following actions:

*a.* Recommend to the board that the case be investigated by the department of inspections and appeals;

- b. Recommend to the board that a board member investigate the facts of the complaint;
- c. Recommend to the board that the case be rejected.

**31.12(2)** The investigating board member or employee of the department of inspections and appeals may request information from any peer review committee which may be established to assist the board. The investigating board member or employee of the department of inspections and appeals may consult with the assistant attorney general concerning the investigation. If an employee of the department of inspections and appeals is designated to investigate, that person may also consult with a designated consulting board member concerning the investigation.

**31.12(3)** Upon completion of an investigation, the designated investigator shall make an investigative report to the screening committee. After consideration of the report, the screening committee may decide to take any of the following actions:

- a. Determine that further investigation is necessary;
- b. Recommend to the board that the investigation be closed with no further action;
- c. Recommend to the board that the investigation be closed with no formal action but with informal advice provided to the licensee;
- d. Recommend to the board that either the screening committee or the full board conduct an informal interview with the licensee, pursuant to rule 31.13(147,154D,272C); or
- e. Recommend to the board that the board make a finding that probable cause exists to believe a violation may have occurred and that a formal disciplinary proceeding should be initiated.

**31.12(4)** Notice of hearing. If there is a finding of probable cause to initiate a disciplinary hearing, a statement of charges and notice of hearing shall be prepared subject to approval by the board or the board chairperson. Upon approval of the charging document, it shall be served on the respondent by certified mail, return receipt requested, at least 20 days before the date of the hearing.

**31.12(5)** Board members who serve on the discipline screening committee are not disqualified from participating in a disciplinary hearing by virtue of service on the screening committee or prior review of investigative material. A consulting board member who has reviewed relevant investigative material will be disqualified from participating in a disciplinary hearing.

**645—31.13(147,154D,272C) Informal licensee interview.** In the course of conducting or directing an investigation, the board may request the licensee to attend an informal licensee interview before the board or the board's screening committee. The licensee is not required to attend or participate in the informal interview. However, the licensee is required to inform the board as to whether the licensee will attend the informal interview. The purpose of an informal licensee interview is to assist the board in determining whether to initiate a disciplinary proceeding, and may be used as a forum for the board to discuss with the licensee practice issues which could be grounds for discipline.

**31.13(1)** Because an informal interview constitutes a part of the board's investigation of a potential disciplinary case, statements that are made and facts which are discussed at the investigatory interview may be considered by the board in the event the matter proceeds to a contested case hearing only if those statements and facts are independently introduced into evidence.

**31.13(2)** The licensee may but is not required to be represented by an attorney at the informal interview. The attorney may advise the licensee and may participate in general discussion, and may, upon leave of the board, make statements on behalf of the licensee, but is not entitled to make procedural motions or objections or engage in argumentative advocacy on behalf of the licensee.

**31.13(3)** The informal interview shall be held in closed session pursuant to Iowa Code section 21.2(2).

**31.13(4)** The licensee or the board may seek an informal stipulation or settlement of the case at the time of the informal interview. If the parties agree to an informal settlement at the investigative interview, a statement of charges shall be filed simultaneously with the settlement document. The chairperson or the chairperson's designee may negotiate on behalf of the board. All informal settlements are subject to approval of a majority of the full board. If approved, the informal settlement becomes the final disposition of the matter and is a public record.

**31.13(5)** No board member is disqualified from participating in an adjudication of any resulting contested case by virtue of participating in an informal licensee interview.

**31.13(6)** In the event a settlement is not reached after an informal interview and a statement of charges is filed, the poststatement of charges settlement procedure set forth in rule 31.14(147,154D,272C) may still be utilized.

**645—31.14(147,154D,272C) Alternative procedure.** A disciplinary hearing before the licensing board is an alternative to the procedure in Iowa Code sections 147.58 to 147.71.

**31.14(1) Informal settlement—procedure and parties.**

*a.* A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by the prosecuting attorney, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board.

*b.* The full board is not involved in negotiation until presentation of a final, written form to a quorum of the board for approval.

**31.14(2) Waiver of notice and opportunity to be heard.** Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board's designee.

**31.14(3) Board approval.** All informal settlements are subject to approval of a majority of the full board. No informal settlement shall be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

**31.14(4) Disqualification of designee.** A board member who is designated to act in negotiation of an informal settlement is disqualified from participating in the adjudication of the contested case.

**645—31.15(147,154D,272C) License denial.** Any request for a hearing before the board concerning the denial of a license shall be submitted by the applicant, in writing, to the board by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license. License denial means a board determination during any stage of the license application process that the applicant is not qualified to proceed with the licensing process.

**645—31.16(17A,147,154D,272C) Hearings open to the public.** A hearing of a licensing board concerning a licensee or an applicant shall be open to the public unless, in the case of a license disciplinary hearing, the licensee or the licensee's attorney requests in writing that the hearing be closed to the public. The hearing shall be conducted in accordance with the rules of procedure set out in 645—Chapter 32.

**645—31.17(17A,147,154D,272C) Judicial review.** Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of the board's decision. It is not necessary to request a rehearing before the board to appeal to the district court.

**645—31.18(147,154D,272C) Publication of decisions.** Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news organizations identified on the media list, the employer, and other persons who request the decisions.

**645—31.19(147,154D,272C) Peer review committees.**

**31.19(1)** Peer review committees for the profession may register with the board of examiners within 30 days after formation.

**31.19(2)** Peer review committees shall report in writing (confidential information within 30 days of the action) any disciplinary action taken against a licensee by the peer review committee.

**31.19(3)** The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice the profession to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The peer review committee shall observe the requirements of confidentiality provided in Iowa Code chapter 272C.

**645—31.20(147,154D,272C) Conduct of persons attending meetings.**

**31.20(1)** The person presiding at a meeting for the board may exclude a person from an open meeting for behavior that obstructs the meeting.

**31.20(2)** Camera and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member presiding at the meeting.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D, and 272C.

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